REMARKS

Claims 1, 4-7, and 14-20 were pending. Claims 15-20 have been cancelled. Claims 1 and 4 have been amended to clarify the invention. Therefore, claims 1, 4-7, and 14 are currently pending.

Rejection of Claims 1, 4-7, and 14 under Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 1, 4-7, and 14 were rejected under the judicially created doctrine of obviousness type double patenting over claims 1-8 and 10-20 of U.S. Patent No. 5,998,457 ("'457 patent").

The Office Action indicates that a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.312 (c) may be used to overcome a rejection based on a non-statutory double patenting ground provided the conflicting patent is shown to be commonly owned with this application. Applicant will address the double patenting issue upon a finding of subject matter in the instant application that is allowable but for the double patenting rejection.

Rejection of Claims 1, 4-7 and 14 under 35 U.S.C. §112, first paragraph

Claims 1, 4-7 and 14 are rejected under 35 U.S.C. § 112, first paragraph, because the specification "while being enabling for treating obesity and/or its related disorders, does not reasonably provide enablement for preventing obesity and/or its related disorders."

Applicant disagrees. However, in the interest of expediting prosecution, Applicant has amended claim 1 such that preventing obesity is no longer claimed. Therefore, Applicant respectfully requests that this rejection of claims 1, 4-7, and 14 under 35 U.S.C. § 112, first paragraph be withdrawn.

Rejection of Claim 4 under 35 U.S.C. § 112, second paragraph

Claim 4 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for reciting the phrase "such as." Applicant respectfully notes that claim 4 has been amended such that it no longer recites the language rejected by the Examiner. Therefore, Applicant respectfully requests that this rejection of claim 4 under 35 U.S.C. § 112, second paragraph be withdrawn.

Rejection of Claims 1, 4-7 and 14 under 35 U.S.C. § 103(a)

Claims 1, 4-7, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,627,172 issued to Almada *et al.*("Almada '172"), and U.S. Patent 5,726,146 issued to Almada *et al.* ("Almada '146), in view of U.S. Patent 4,647,453 issued to Meisner ("Meisner") and Ishikawa *et al.* (JP 0719485).

The present invention is drawn to methods of treating obesity. The method includes administering to a subject an amount of a creatine compound to treat obesity.

Almada '172 discuss a method for lowering serum lipid levels by the administration of a creatine derivative. As acknowleged by the Examiner, Almada '172 does not teach or suggest the use of creatine to treat obesity, as claimed by Applicant.

Almada '146 is directed towards a dietary formulation which increases lean muscle mass. The formula comprises creatine, ribonucleic acid and taurine in a combined amount sufficient or produce an increase in lean mass in weight training individual. Almada '146 does not teach or suggest methods for treating obesity by the administration of an effective amount the claimed creatine compounds.

Meisner discusses methods for the treatment of periodontal disease, osteoarthritis and other destructive connective tissue inflammatory diseases. Meisner does not teach or suggest methods using the claimed creatine compounds. Creatine is listed as one example of a tissue anti-inflammatory compound of a combination of a stimulant, or a precursor or epinephrine or norepinephrine and anti-inflammatory making a gingival-tooth junction. Meisner's method involves applying a combination of stimulant and an anti-inflammatory. Meisner does not teach or suggest administering an effective amount of a creatine compound to treat obesity as claimed by Applicant.

Ishikawa also fails to overcome the deficiencies of the primary and secondary references. Ishikawa is directed to the use of carnitine to improve lipid metabolism. Ishikawa fails to teach or suggest using an effective amount of creatine to treat obesity. Creatine is disclosed only as a possible nutrient which may be absorbed by the active charcoal with the carnitine of the invention. Like the other references, Ishikawa fails to teach or suggest treating obesity using an effective amount of creatine.

None of the primary or secondary references, alone or in combination, teach or suggest to a skilled artisan a method of treating or preventing a obesity by administering to a subject an effective amount of a claimed creatine compound.

Therefore, Applicant respectfully requests that the rejections of claims 1, 4-7 and 14 under 35 U.S.C. § 103 (a) be reconsidered and withdrawn.

SUMMARY

Cancellation of and/or amendments to the claims should in no way be construed as an acquiescence to any of the Examiner's objections and/or rejections. The cancellation of the claims is being made solely to expedite prosecution of the above-identified application. Applicant reserves the option to further prosecute the same or similar claims in the present or another patent application. The amendments made to the claims are not related to any issues of patentability.

In view of the above remarks, it is believed that this application is in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Date: September 13, 2007

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